

REMARKS

The present communication responds to the non-final Office Action mailed March 28, 2005. In the Office Action, the Examiner made objections to the specification, required a new Declaration, and rejected pending claims 16-20 and 24-37. Claims 1-15 and 21-23 were previously canceled.

In the present communication, applicant has corrected the claim to priority to recite "This application is a Continuation of International Patent Application No. PCT/CH02/00209, filed on April 15, 2002, which claims priority to German Application No. 101 19 036.0, filed on April 18, 2001; the contents of both are incorporated herein by reference." Applicant has also included a new executed declaration along with a new Application Data Sheet.

Claims 26 and 31 have been canceled.

The §§ 112, second paragraph, 102(b), and 103(a) rejections of the claims are respectfully traversed in view of the above amendments and because the cited references, alone or in combination, do not disclose or suggest an immersion sensor having an enzyme region coupled on at least one side to an analyte-impermeable, oxygen-permeable membrane having no analyte window.

Rejection Under 35 U.S.C. § 112

Claims 16-20 and 24-37 were rejected under 35 U.S.C. § 112, second paragraph.

Applicant respectfully traverses the § 112, second paragraph rejection. However, in order to advance prosecution, claims 16, 18-20, 27, 28, 30, 33, 35, and 37 are being formally amended. More particularly, Claim 16 has been amended in order to clarify the analyte-impermeable, oxygen permeable membrane having no analyte window. Claim 18 has been amended in order to clarify the channel and antecedent basis. Claim 19 has been amended to clarify the placement of the substance filling the channel. Claim 20 has been amended to clarify the surface of the sensor. Claims 27 and 28 have been amended in order to clarify claim dependency. Claim 30 has been amended in order to clarify the placement of the analyte-impermeable, oxygen-permeable membrane having no analyte window. Claim 33 has been

amended to clarify the diffusion resistance in the channel. Claim 35 has been amended to clarify the surface of the sensor. Claim 37 has been amended to clarify the channel. The amendments to the claims do not add new matter to the present application.

These amendments address the § 112 rejections without adding new matter. Reconsideration and withdrawal of the § 112 rejections are requested.

Rejections Under 35 U.S.C. §§ 102(b), and 103(a)

Claims 16-20, 24-27, 32-33, and 33-36 were rejected under 35 U.S.C. § 102(b) over Janssen et al. (EP 539625).

Claims 16-20, 24-30, 32-36 were rejected under 35 U.S.C. § 103(a) over Janssen et al. in view of Clark, Jr. (U.S. 4,680,268).

Claims 16-20 and 24-36 were rejected under 35 U.S.C. § 103(a) over Janssen et al. and Clark, Jr. as applied to claims 16-20, 24-30, and 32-36, and further in view of Gross et al. (WO 96/14026).

Claims 16-20, 24-27, 32-33, and 35-37 were rejected under 35 U.S.C. § 103(a) over Janssen et al. in view of van Woedtke et al. (Sensors and Actuators B, 1997, B42(3): 151-156).

Applicant respectfully traverses the rejections of the claims. Applicant submits that the cited references, alone or in combination fail to disclose or suggest the elements of at least independent claim 16. Specifically, the cited references fail to disclose or suggest “An immersion sensor for measuring the concentration of at least one analyte with the aid of an oxidase, wherein said immersion sensor comprises said oxidase in an enzyme region coupled on at least one side to an analyte-impermeable, oxygen-permeable membrane having no analyte window, said enzyme region connected to the surface of the sensor via at least one channel which contains water and is permeable to the analyte.”

Janssen fails to teach the above-mentioned limitations because Janssen teaches “a membrane impermeable to glucose (8), having an opening or hole (10) rendering said membrane locally permeable for glucose.” *See* Abstract.

Clark fails to remedy the deficiencies of Janssen because Clark teaches “membrane 10 is permeable to small molecules, such as glucose and lactate.” Column 6, line 44.

Clearly Janssen and/or Clark do not disclose or suggest a analyte-impermeable, oxygen permeable layer without an analyte window.

Janssen, Clark, Gross, and von Woedtke, alone or in combination, do not disclose or suggest each element of the independent claim. Therefore, reconsideration and withdrawal of the §§ 102(b) and 103(a) rejections are respectfully requested.

Claims 17-20, 24-25, 27-30, and 32-37 depend from the independent claim, and are distinguishable over the prior art for at least the reasons set forth above, and further in view of their additional recitations.

CONCLUSION

This communication generates no claim fees, but a petition for an extension of time, along with a check in the amount of \$ 1,020.00 for the related petition fees is being submitted herewith. The Commissioner is also hereby authorized to charge any additional fees and/or credit any overpayments associated with this communication or the petition to Deposit Account No. 04-1420.

The application is in allowable form, and reconsideration and allowance are respectfully requested.

Respectfully submitted,

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Date:

September 27, 2005

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